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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 4th August, 2022

No. 13/1/9883-HII(2)-2022/11627.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 86/2020 dated 19.07.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

JASMINE VINCENT, HOUSE NO. 1367, ADARSH NAGAR, BLOCK 'E', NAYAGAON,
DISTRICT MOHALI. (Workman)

AND

NATIONAL SECRETARY, YWCA OF INDIA, 10, PARLIAMENT STREET, NEW DELHI - 110001.
(Management)

AWARD

1. Jasmine Vincent, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman was appointed as Assistant Hostel & Programme Coordinator, YWCA of India Project in Chandigarh on probation of six months with effect from 15th March, 2017 on gross wages of ₹ 11,320/- *vide* letter dated 14th March, 2017. After successful completion of probation, the workman was given an extension of one month *vide* Gmail dated 19th September, 2017. *Vide* letter dated 1st November, 2017 the service period of the workman was extended for a period of one year i.e. up to November, 2018. Thereafter *vide* letter dated 1st November, 2018 the service period of the workman was extended with effect from 1st November, 2018 and ending 30th October, 2019. On 29th October, 2019 the workman received Gmail *vide* which the workman was informed that her contract of employment is going to be over by the end of this month i.e. 31st October, 2019. *Vide* letter dated 11th November, 2019 the management informed the workman that at the time of her appointment,

(787)

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Location:

a major requirement was to have a staff living on campus to ensure safety of the hostel residents and to have a reliever to Ms. Preety Joseph, Hostel In-charge. However, following the marriage of the workman that the workman wishes to stay out of campus was considered positively by the YWCA of India and the approval was granted. The need to have staff at campus has come great need so the YWCA of India looking at the personal constraints of the workman has decided to relieve the workman from service after giving her a notice of one month effect from 15th November and ending 14th December, 2019. There was no such condition at the time of appointment to have staff living in campus. The workman also did not make any wish to stay out of campus following her marriage. The workman received letter dated 3rd December, 2019 on the subject intimation regarding expiry of the tenure of contract of employment as Assistant Hostel & Programme Coordinator at the YWCA of Chandigarh. The workman was relieved from service of YWCA of Chandigarh with effect from 14th December, 2019. The workman remained in continuous & uninterrupted employment from 15.03.2017 to 14.12.2019 and her last salary drawn was ₹ 14,423/- per month. There was no complaint whatsoever against the work & conduct from any of her colleagues and superiors. Action of the management in terminating the services of the workman was illegal, wrongful, motivated, against the principles of natural justice and unfair labour practice. The management has also violated Section 25-F of the ID Act. No charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. Therefore, termination order is void. For reinstatement the workman served upon the management a demand notice dated 17.12.2019. The management neither replied the demand notice nor took the workman back on duty. The Conciliation Officer, Union Territory Chandigarh was requested for his intervention but the matter could not be settled within the stipulated period. Thus prayer is made that the workman may be reinstated with full back wages, with continuity of service, without any change in her service condition and with full attendant benefits. The workman remained un-employed during the period i.e. from the date of termination till date.

2. On notice, the management appeared through its authorized representative and contested the claim of the workman by filing written statement on 08.02.2021, wherein preliminary objections are raised on the ground that the statement of claim / demand notice as well as reference is illegal, *mala fide*, unjustified, frivolous, vexatious, void and thus not maintainable. In preliminary objections it is further stated that the workman was engaged on fixed term contract and her contractual appointment was subject to termination automatically on the expiry of her original contract or extended contract. The contract of appointment was consciously accepted and acknowledged from time to time by the workman and the conditions of the same indicate that the employment is short lived and the same is liable to be terminated on the fixed period in the contract of appointment. The services of the workman were dispensed with in accordance with a stipulation in the contract of employment. Therefore, termination of the contract of the workman duly falls in the exception clause of Section 2(oo)(bb) of the ID Act. Hence, the same does not amount to retrenchment. As per the settled proposition of law, if the termination of service is made under the exceptions as contained in Clause (bb) of Section 2(oo) of ID Act, it would not be a retrenchment. Consequently, Section 25-F, 25-H & 25-G would not apply in the present case. The workman was working for the Young Women's Working Christian Association of India (YWCA) having a branch in Sector 11-B, Chandigarh. This association is being run by an NGO on 'No Profit No Loss' basis in order to achieve the objective of women empowerment. The predominant activities of this association is to provide hostel accommodation to the young ladies including students. In view of this background and the predominant activities of this NGO, it does not fall in the category of 'industry' as defined under Section 2(j) of the ID Act. The duties which the claimant performed are not of a 'workman' so the present claim statement is nothing but a futile exercise on her part to extract money from the YWCA.

3. On merits, it is stated that in order to ascertain the suitability of the workman, she was taken on probation for six months, with the condition that on termination of the probation, there will be no right or lien on the job and it was also stipulated that on successful completion of probation, the workman may be considered to be appointed on contract basis. Her initial period of probation was to end on 14.09.2017 but in order to further adjudge her suitability, her probation period was extended for another month i.e. up to 14.10.2017. The workman remained absent without pay from duty from 08.10.2017 to 31.10.2017 and resumed duty on 01.11.2017, then the workman was appointed on contractual basis as Assistant Hostel & Programme Coordinator *vide* contract dated 01.11.2017 duly accepted by her. The contract was for a period of one year commencing from 01.11.2017 and ending on 31.10.2018. During this period the workman was on maternity leave for 26 weeks for the period with effect from 10.07.2018 to 09.01.2019. In the meantime, keeping in view the interest of the workman and her child, she was again appointed on contract basis for a period of one year i.e. from 01.11.2018 to 30.10.2019 *vide* contract dated 30.11.2018 duly accepted and acknowledged by her. This contract was also having a specific stipulation that unless advised in writing her contractual appointment shall stand automatically terminated. No mail dated 29.10.2019 was ever addressed to the workman. Admittedly, *vide* letter dated 11.11.2019 the workman was informed that her contractual appointment was to end on 31.10.2019 and keeping in view the personal constraints, as expressed by the workman, her contract was extended up to 31.12.2019 on compassionate grounds but the workman stopped reporting for duty with effect from 15.12.2019 for the reasons best known to her. It was clear understanding that the workman was to stay in the campus and accordingly she was allowed to stay in the campus till she got married and thereafter, the workman showed her inability to stay in the campus. In any case her contractual appointment was terminated as per the stipulation in the contract as such her termination does not amount to retrenchment as detailed in preliminary objections. It is admitted to the extent that the workman was intimated regarding the expiry of her contract of appointment. It is further stated that the workman stopped attending her duties with effect from 15.12.2019. The workman remained in continuous and uninterrupted employment from 15.03.2017 to 14.12.2019. The workman remained absent without pay for 39 days from 08.10.2017 to 31.10.2017 and from 17.01.2019 to 31.01.2019 besides maternity leave of 26 weeks. Even otherwise Section 25-B of the ID Act is not attracted in the present case. The completion of 240 days of work will create no right to the workman to raise the present dispute in view of the fact that the termination of the workman is made under the exceptions, as contained in clause (bb) of Section 2(oo) of the ID Act, which would not amount to retrenchment even if the workman had worked more than 240 days. Since Section 25-F of ID Act is not violated, thus, no charge sheet or inquiry was required to be issued or held. The management in response to notice dated 30.01.2020 of the Conciliation Officer appeared before the Conciliation Officer on 18.02.2020 and filed its detailed written comments on 17.03.2020. The conciliation proceedings concluded and the matter remained unsettled. The workman is not entitled to relief of reinstatement with full back wages and continuity of service. The workman may be put to strict proof that she remained unemployed. Remaining averments of the claim of the workman are denied as wrong and prayer is made that the statement of claim / demand notice / reference may be dismissed with exemplary cost.

4. The workman filed rejoinder, wherein the averments of the statement of claim are reiterated and the contents of written statement are denied as wrong and in correct except the admitted facts of the claim.

5. From the pleadings of the parties, following issues were framed :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW

2. Whether Ms. Jasmine Vincent is not a 'workman' as defined under Section 2(s) of the ID Act ? OPM
3. Relief.

6. In support of the case, the workman Jasmine Vincent examined herself as AW1 and tendered her affidavit Exhibit 'AW1/A' along with documents i.e. appointment letter dated 14.03.2017 Exhibit 'AW1/1', letter dated 30.11.2018 whereby her service period was extended with effect from 01.11.2018 and ending on 30.10.2019 *vide* Exhibit 'AW1/2', hard copy of gmail dated 29.10.2019 *vide* which she was informed that her contract of employment is going to be over by the end of this month (31.10.2019) *vide* Exhibit 'AW1/3', copy of letter dated 11.11.2019 whereby the management informed the workman that following her marriage, her wish to stay out of campus was considered positively by the YWCA of India and the approval was granted *vide* Exhibit 'AW1/4', copy of letter dated 03.12.2019 on the subject intimation regarding expiry of tenure of contract of employment as Assistant Hostel & Programme Coordinator at YWCA of Chandigarh and that she was relieved from the services of YWCA of Chandigarh with effect from 14.12.2019 *vide* Exhibit 'AW1/5'. On 14.10.2021 the representative for the workman closed evidence of the workman.

7. On the other hand, the management examined MW1 Ms. Preety Joseph - Hostel Secretary, YWCA, Sector 11-B, Chandigarh, who tendered her affidavit Exhibit 'MW1/A' along with documents i.e. certificate dated 01.11.2021 issued *vide* Rio Kalpana David, National General Secretary, YWCA of India whereby it was certified that Ms. Preety Joseph - Project Manager at YWCA of India, Working Women Hostel, Chandigarh is authorised to represent on behalf of YWCA of India and appear before the Court in the matter of Jasmine Vincent Versus YWCA of India *vide* Exhibit 'M1', copy of written comments of the management filed before the Conciliation Officer and Assistant Labour Commissioner, Union Territory Chandigarh *vide* Exhibit 'M2'. During cross-examination of AW1 Jasmine Vincent, learned representative for the management put documents i.e. hard copy of gmail dated 19.09.2017 addressed to the workman *vide* Exhibit 'MX1', appointment letter dated 01.11.2017 issued to the workman Ms. Jasmine Vincent whereby she was offered the position of Assistant Hostel & Programme Coordinator at YWCA of India Project at Chandigarh on contract of one year with effect from 01.09.2017 *vide* Exhibit 'MX2' and hard copy of gmail dated 30.11.2019 addressed to workman Jasmine Vincent *vide* Exhibit 'MX3'. On 20.02.2022 learned representative for the management closed the evidence.

8. I have heard the learned representatives for the parties and have perused the judicial file. My issue-wise findings are as below :—

Issue No.1 :—

9. Onus to prove issue No.1 is on the workman.

10. In order to prove its claim the workman Jasmine Vincent examined herself as AW1 and *vide* affidavit Exhibit 'AW1/A' deposed the contents of her statement of claim in toto. AW1 supported her oral version with documents Exhibit 'AW1/1' to Exhibit 'AW1/5'.

11. On the other hand, in order to rebut the claim of the workman, the management examined MW1 Ms. Preety Joseph, Hostel Secretary, YWCA, Sector 11-B, Chandigarh who *vide* her affidavit Exhibit 'MW1/A' deposed the material contents of the written reply and supported her oral version with documents Exhibit 'M1' & 'M2'.

12. From the oral as well documentary evidence led by the parties it comes out that undisputedly the workman Jasmine Vincent was appointed as Assistant Hostel & Programme Coordinator by the management on probation with effect from 15.03.2017 on a gross salary of ₹ 11,320/-. After successful completion of probation period the workman was given extension for one month. Again the service period of the workman was extended up to November 2018, then up to 30.10.2019. Thereafter *vide* letter dated 11.11.2019 her contract was extended up to 31.12.2019 on compassionate grounds. The workman remained in continuous and uninterrupted employment from 15.03.2017 to 14.12.2019 and drawn her last salary ₹14,430/-. The workman was relieved from service with effect from 14.12.2019. It is argued by learned representative for the workman that the action of the management in terminating the services of the workman is illegal and wrongful and in violation to Section 25-F of the ID Act and amounts to unfair labour practice. To support his arguments learned representative for the workman referred to ***judgment dated 13.05.1996 of Hon'ble High Court of Punjab & Haryana passed in CWP No.18101 of 1994 titled as Mohan Lal Versus Director, North Zone Cultural Centre, Patiala etc.*** On the other hand, learned representative for the management argued that the workman was employed on probation for six months with effect from 15.03.2017 *vide* Exhibit 'AW1/1'. As per this document on termination of probation the workman will have no right or lien on the job. Exhibit 'AW1/1' also stipulates that after successful completion of probation, the workman may be considered at the discretion of the management on contract basis. The initial period of probation of workman ended on 14.09.2017 and it was extended for one month *vide* mail dated 19.09.2017 / Exhibit 'MX1'. The period of one month was to end on 14.10.2017. During this period the workman remained on leave without pay from 08.10.2017 to 31.10.2017 on account of her marriage. The workman visited the office of the management on 01.11.2017 and on that day a contract of employment Exhibit 'MX2' was executed with her which was for a period of one year and it was to end on 30.10.2018. This contract was further extended for another one year which was to end on 30.10.2019 *vide* Exhibit 'AW1/2' about which the workman was informed *vide* Exhibit 'AW1/3'. On 30.11.2019 the workman visited the office of the management at Delhi and *vide* mail dated 30.11.2019 / Exhibit 'MX3' the workman was informed that her contract was extended up to 30.12.2019 as requested by her. The workman reported for duty only up to 14.12.2019 and thereafter the workman stopped reporting for duty from 15.12.2019, thus the contract with the workman automatically came to end on 31.12.2019. Thereafter, the contract with the workman was neither renewed nor extended. The services of the workman came to end on account of non-renewal of contract between the workman and the management. Therefore, it does not amount to retrenchment as defined in Section 2(oo) of the ID Act. The present case squarely falls in the exception Clause of Section 2(oo) of the ID Act. Section 2(oo)(bb) of the ID Act provides that the provisions relating to the retrenchment did not include, *inter-alia*, termination of services of claimant as a result of non-renewal of contract of employment between the employer and the claimant concerned. To support his arguments learned representative for the management referred case law reported in ***2013 AIR SC 2762 titled as Bhavnagar Municipal Corporation Versus Saleembhai Umarbhai Mansuri, 2006(2) LLJ 235 SC titled as Municipal Corporation, Ludhiana Versus Ram Pal, 2006 AIR SC 1263 titled as The Haryana State Agricultural Marketing Board Versus Subhash Chand & Another.*** To my opinion the aforesaid judgments of Hon'ble Supreme Court referred by learned representative for the management shall prevail over the judgment of Hon'ble High Court referred by the representative for the workman. Accordingly, as per the law laid down by Hon'ble Supreme Court of India the termination of service made under the exceptions contained in Clause (bb) of Section 2(oo) of the ID Act will not amount to retrenchment and cannot be held illegal or violated to Section 25-F of the ID Act. In the present case the workman while accepting initial appointment on probation *vide* Exhibit 'AW1/1' was fully aware of the fact that her employment is short lived and she has been engaged on contractual basis. In cross-examination AW1 stated that it is correct that she was employed on probation for six months with effect from 15.03.2017 *vide* Exhibit 'AW1/1'. AW1

admitted as correct that as per this document on termination of her probation there will be no right or lien on the job. AW1 admitted as correct that in this documents it was also mentioned that her placement may be considered at the discretion of the management on completion of her probation on contract basis. AW1 admitted as correct that her probation was to end on 14.09.2017 and her probation was extended for a period of one month *vide* mail dated 19.09.2017 / Exhibit 'MX1'. AW1 stated that from 01.11.2017 she was engaged on contract for one year with effect from 01.11.2017. AW1 stated that she has seen this contract dated 01.11.2017 which bears her signature as its acceptance and acknowledgment and the same is Exhibit 'MX2'. AW1 admitted as correct that this contract was to end on 31.10.2018 and it was extended for another one year *vide* Exhibit 'AW1/2' and this extended contract was to end on 31.10.2019 and about this she was informed *vide* Exhibit 'AW1/3'. AW1 further admitted as correct that *vide* mail dated 30.11.2019 / Exhibit 'MX3' she was informed that her contract was extended up to 31.12.2019 as per request. AW1 admitted as correct that she reported for duty up to 14.12.2019 and stopped reported for duty with effect from 15.12.2019. In view of the above said version of AW1, it is duly proved on record that the contract of the workman with the management came to an end on 31.12.2019 and prior to the end date, the workman herself stopped attending to her duty from 15.12.2019. These facts would clearly indicate that there was no retrenchment under Section 2(oo) read with Section 2(bb) of ID Act and consequently Section 25-F is not attracted.

13. Accordingly, issue No.1 is decided against the workman and in favour of the management.

Issue No. 2 :—

14. Onus to prove this issue is on the management. During the course of arguments learned representative for the management did not press this issue. Though the management has alleged that YWCA is run by NGO on 'no profit no loss' basis and predominant activity of this association is to provide hostel accommodation to the young ladies and students, thus, the management does not fall in the category of 'industry' as defined under Section 2(j) of the ID Act and the claimant does not fall in the category of 'workman' as defined under Section 2(s) of the ID Act. The management has failed to substantiate its aforesaid plea with any documentary evidence to this effect.

15. Accordingly, this issue is decided against the management and in favour of the workman.

Relief :—

16. In the view of findings on issue No.1 above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

Chandigarh :
The 19th July, 2022.

(Sd.) . . . ,
(JAGDEEP KAUR VIRK),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory Chandigarh.
UID No. PB0152.

Secretary Labour,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
HEALTH DEPARTMENT**Notification**

The 19th July, 2022

No. F-189/E-37762/FII(6)/2022/10807.—In exercise of the powers conferred by Section 21 of Drugs & Cosmetic Act, 1940 (Act 23 of 1940), read with Rule 49 of the Drugs and Cosmetics Rules, 1945 and all other powers enabling them in this behalf, the Adviser to the Administrator, Union Territory, Chandigarh hereby appoints the following officials as Inspectors under the aforesaid Act, for the Union Territory of Chandigarh with immediate effect :—

S. No.	Name
1.	Sh. Sunil Kumar Chaudhary
2.	Sh. Tajinder Singh
3.	Sh. Amit Lakhanpal

Chandigarh :
The 19th July, 2022.

YASHPAL GARG, IAS,
Secretary Health,
Chandigarh Administration.

CHANGE OF NAME

I, Geetu *Alias* GITU *Alias* Geeta *Alias* Geeta Agarwal *Alias* G Aggarwal, D/o Madhur Aggarwal, # 3128, Sector 28-D, Chandigarh, have changed my name to Geetu Aggarwal.

[666-1]

I, Premvati, D/o Hari Singh, # 3031, Sector 24-D, Chandigarh, have changed my name to Pooja.

[667-1]

I, Reena, W/o Ram Avtar, R/o # 595, Small Flats, Dhanas, Chandigarh, have changed my name from Reena to Paramjit Kaur.

[668-1]

I, Ranjan Kumar, S/o Satish Kumar, # 3229, Sector 37-D, Chandigarh, changed my minor son's name Gaurav to Gaurav Arora.

[669-1]

I, Deepak Nayak, S/o Banwari Lal, R/o # 2006/28, Sector 32-C, Chandigarh, have changed my name to Deepak Kumar.

[670-1]

I, Anita Nayak, W/o Deepak Kumar, R/o # 2006/28, Sector 32-C, Chandigarh, have changed my name to Anita Devi.

[671-1]

I, Vinesh Kumar, S/o Sh. Jaipal Singh, House No. 3246, Sector 25-D, Chandigarh, have changed my name to Ajay Maahi.

[672-1]

I, Kiran Devi, W/o Sanjay Kumar, # 519, Village Hallumajra, Chandigarh, have changed my name to Kiran.

[673-1]

I, Muskan Malik, W/o Vinil Malik, # 5296, Sector 38 (West), Chandigarh, have changed my name to Muskan Gumber.

[674-1]

I, Naresh, S/o Achhar Singh, R/o H. No. 195, Milk Colony Dhanas, Chandigarh-160015, do hereby solemnly affirm and declare that I have changed my name from Naresh to Naresh Kumar. All Please Note.

[675-1]

I, Renu, W/o Naresh Kumar, R/o H. No. 195, Milk Colony Dhanas, Chandigarh-160015, do hereby solemnly affirm and declare that I have changed my name from Renu to Renu Bala. All Please Note.

[676-1]

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